



## NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
CAROLINA POWER & LIGHT COMPANY	)	
	)	
	)	
H. B. Robinson Steam Electric Plant,	)	
Unit No. 2	)	License Nos. DPR-23 and SNM-2502
H. B. Robinson Steam Electric Plant, Unit 2	)	Docket Nos. 50-261 and 72-3
Independent Spent Fuel Storage Installation)	)	

[NRC-2011-0282]

### ORDER APPROVING INDIRECT TRANSFER OF CONTROL OF LICENSES

#### I.

Carolina Power & Light Company (CP&L, the licensee) is the owner of the H. B. Robinson Steam Electric Plant (Robinson), Unit No. 2, Renewed Facility Operating License No. DPR-23, and the Robinson Unit No. 2 Independent Spent Fuel Storage Installation (ISFSI), Renewed Materials License No. SNM-2502. The Robinson facility consists of a single unit Westinghouse three-loop pressurized water reactor and an ISFSI located in Darlington County, South Carolina. The facility operating license and materials license authorize CP&L to possess, use, and operate the Robinson facility.

#### II.

By application dated March 30, 2011 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML11110A031), as supplemented by letter dated September 2, 2011 (ADAMS Accession No. ML11255A129) (collectively hereinafter referred to as the application), the licensee requested, pursuant to Section 184 of the Atomic Energy Act of 1954, as amended, and Sections 50.80 and 72.50 of Title 10 of the *Code of Federal Regulations* (10 CFR), that the Nuclear Regulatory Commission (NRC or the Commission) consent to the proposed indirect transfer of control of the facility operating license and materials

license for Robinson. The proposed indirect transfer of control of the licenses results from the planned corporate merger between Progress Energy, Inc. (Progress Energy) and Duke Energy Corporation (Duke Energy). Progress Energy is CP&L's ultimate parent corporation. As part of the transaction, Progress Energy will merge with Diamond Acquisition Corporation, a wholly owned subsidiary of Duke Energy. Progress Energy will be the surviving entity and will become a wholly owned subsidiary of Duke Energy. Progress Energy will become an intermediate parent corporation of CP&L.

CP&L holds 100 percent ownership and is the sole operator of the Robinson facility. The proposed indirect transfer of control of the Robinson licenses will not result in any change in the role of the CP&L as the licensed operator and owner of the Robinson facility and will not result in any changes to its financial qualifications, decommissioning funding assurance, or technical qualifications. CP&L will retain the requisite qualifications to own and operate the licensed facility.

Approval of the indirect transfer of control of the facility operating license and the material license for Robinson was requested by CP&L. A notice entitled, "Notice of Consideration of Approval of Application for Indirect License Transfers Resulting from the Proposed Merger Between Progress Energy, Inc. and Duke Energy Corporation, and Opportunity for Hearing," was published in the *Federal Register* on August 31, 2011 (76 FR 54261). No comments or hearing requests were received.

Pursuant to 10 CFR 50.80(a), no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the NRC shall give its consent in writing. Also, pursuant to 10 CFR 72.50(a), no license or any part included in a license issued under part [72] for an ISFSI shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing. Upon review of

the information in the application and other information before the Commission, and relying on the representations in the application, the NRC staff has determined that the proposed indirect transfer of control of the Robinson licenses held by CP&L, to the extent affected by the proposed corporate merger between Progress Energy and Duke Energy Corporation, will not affect the qualifications of CP&L as holder of the Robinson licenses and is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the NRC, pursuant thereto. The findings set forth above are supported by a safety evaluation dated December 2, 2011.

III.

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended (42 USC Sections 2201(b), 2201(i), 2201(o), and 2234, respectively); and Sections 50.80 and 72.50 of 10 CFR, IT IS HEREBY ORDERED that the application regarding the proposed indirect license transfers related to the proposed merger is approved.

IT IS FURTHER ORDERED that after receipt of all required regulatory approvals associated with the proposed indirect transfer action, CP&L shall inform the Director of the Office of Nuclear Reactor Regulation in writing of the date of the closing of the corporate merger of Progress Energy and Duke Energy. Should the indirect transfer of control of the licenses not be completed by December 2, 2012, this Order shall become null and void, provided, however, upon written application and good cause shown, such date may be extended by order of the Commission.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated March 30, 2011, as supplemented by letter dated September 2, 2011, and the Safety Evaluation

dated December 2, 2011, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01 F21, 11555 Rockville Pike, Rockville, Maryland. Publicly available documents created or received at the NRC are accessible electronically through ADAMS <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR reference staff by telephone at 1-800-397-4209, or 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Dated at Rockville, Maryland this 2<sup>nd</sup> day of December 2011.

FOR THE NUCLEAR REGULATORY COMMISSION

**/RA/**

Michele G. Evans, Director  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

**/RA/**

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